IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 902/2004
(Mota Ram Vs. State of Rajasthan & Anr.)

Date of Order : 30/08/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. N.S.Rajpurohit for the petitione.
Mr. Ashok Upadhyay, public prosecutor.
Mr. Manoj Rathore for the non-petitioner No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 23.4.2004 passed by Judicial Magistrate, Bar, district Pali (for short 'the trial court' hereinafter) in Crime Report No.09/2003 Police Station Raipur, district Pali for the offences under Sections 467, 468, 471, 420 and 120-B IPC.

I have heard learned counsel for the parties. Perused the order impugned.

On a first information report lodged by non-petitioner No.2 Laxman Ram with Police Station Raipur, a crime report No.09/2003 was registered for the offences noticed above

against the petitioner. After investigation, the police has filed challan against the petitioner before the trial court. During pendency of the criminal case, the petitioner filed an application under Section 457 Cr.P.C. seeking interim custody of the Truck bearing No.RJ 22-G-0276. Non-petitioner No.2 Laxman Ram also moved similar application seeking interim custody of the vehicle in question. The trial court dismissed the application filed by the petitioner. However, the application filed by the non-petitioner No.2 seeking interim custody of the vehicle in question was allowed and the trial court directed to give interim custody of the vehicle on Supardaginama on the terms and conditions mentioned in the order impugned to non-petitioner No.2 Laxman Ram.

It is contended by learned counsel for the petitioner that originally the vehicle in question was owned and registered in the name of one Baldev Ram who sold it to Ghanshyam Soni and Ghanshyam Soni, through financier Augadsingh, gave the said vehicle to Nageshwar and thereafter Nageshwar sold the vehicle to non-petitioner No.2 Laxman Ram. It appears that the vehicle was financed by financier Augadsingh and therefore, there was an agreement between the parties to pay the installments to the financier. Learned counsel submits that in order to secure interest, the financier got the vehicle registered

in the name of Motaram who is his servant and therefore, Motaram being a registered owner is entitled to possess the vehicle.

Learned counsel for the non-petitioner No.2 submits that even from the admitted facts it is more than clear that the vehicle has been passed on to many hands and lastly it was sold to Nageshwar and from Nageshwar, the non-petitioner No.2 purchased the vehicle in question for a valuable consideration and thereafter it was petitioner Motaram who took the vehicle forcibly and by a forged document got the vehicle registered in his name.

From the order impugned, it is more than clear that except registration of the vehicle in question in his favour, the petitioner has no title as admittedly he never purchased the vehicle in question either from Augadsingh or Ghanshyam. On the contrary, according to admitted facts, the vehicle was originally owned by Baldev Ram. Baldev Ram sold the vehicle to Ghanshyam Soni and Ghanshyam Soni sold the same through financier to Nageshwar and lastly Nageshwar sold the vehicle to the present non-petitioner No.2 Laxman Ram and it is non-petitioner No.2 who was in the lawful possession of the vehicle prior to the occurrence of which a crime report has been lodged.

In the circumstances, therefore, in my view, the trial court was justified in releasing the vehicle in question in favour of non-petitioner No.2. In this view of the matter, it cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of any Court.

The petition has no force and it is therefore, dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

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